

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7338 of 1997

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

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DEVENDRA K TAVRE

Versus

MUNICIPAL COMMISSIONER

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Appearance:

MS SHILPA R SHAH for Petitioner  
MR PRANAV G DESAI for Respondent No. 1  
SERVED BY DS for Respondent No. 2

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CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 23/10/97

ORAL JUDGEMENT

By way of this Special Civil Application, the petitioner has challenged the order dated 20/30.7.1996 whereby the petitioner having been held guilty of breach of section 18 of the Gujarat Civil Services (Conduct) Rules, 1971 has been inflicted following punishment:

"Stoppage of two increments with future effect under the provisions of Section 56(2)(b) of the B.P.M.C. Act, 1949.

Reversion back to the post of Pumpman, forthwith,

Suspension allowance given during the suspension period to be treated as salary, and the difference between the suspension allowance and the salary not to be paid,

The suspension period to be treated as absent from duty (leave without pay) for all purposes except for the purpose of pension and gratuity."

Challenging the impugned order, Ms. Shilpa Shah submits that the allegations against the petitioner is that he did not inform the department regarding filing of an FIR against him and his subsequent arrest. The allegation is of trifling nature. It is submitted that the petitioner had informed the authorities orally. Evidence was led to the same effect during the enquiry. However, the petitioner has been held guilty only on the ground that the information was not given in writing. The authority has not given any reason for not believing the statement of the petitioner. In fact, there is no finding that this part of the statement of delinquent is not believed, but the reason given is that he has not given information in writing. Therefore, in my view the finding is ex-facie erroneous. The impugned order of punishment on such finding cannot be sustained. I am amazed to see that all sorts of punishments have been inflicted on the petitioner on a charge of trifling nature. I am informed that the petitioner has been acquitted in the said case. There is stoppage of increment, reversion, forfeiture of suspension allowance and further that the period of suspension is treated as absence from duty. It is expected from the disciplinary authorities that they take a balanced view.

In view of the above, this Special Civil Application is allowed. Order dated 28/30.7.1996 passed by the respondent is quashed and set aside.

Rule made absolute accordingly.

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msp.